

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Bill Vladimir Gomelsky, and
American Earth Management,
Inc.
d.b.a. American Oil Company
13740 Saticoy St.
Van Nuys, CA 91402
EPA ID No. CAD 981427669

Respondents

Docket HWCA 20040529

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to American Earth Management, Inc., d.b.a. American Oil Company, Bill Vladimir Gomelsky, its President (Respondents).

1.2. Site. Respondents transport hazardous waste and operate their business out of 13740 Saticoy St., Van Nuys, CA 91402.

1.3. Permit/Interim Status. The Department authorized Respondent, American Oil Company, to transport hazardous waste by hazardous waste transporter registration number 1601, which was issued on or about April 10, 1987 and expires on May 31, 2005.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department

determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondents violated Health and Safety Code section 25189.2, subdivision (a), in that on five separate occasions between July 24, 2000, and November 8, 2001, Respondents made false statements on five different manifests by misrepresenting the waste description, waste code, or container.

2.1.a. Manifest #20842252, dated September 26, 2001, falsely states that the waste is non-flammable (waste code 221, in a tanker truck).

2.1.b. Manifest #20074926, dated September 21, 2001, falsely states that the waste is non-flammable (waste code 291).

2.1.c. Manifest #20071563, dated July 24, 2000, falsely states that the waste is non-flammable (waste code 221, in a tanker truck).

2.1.d. Manifest #20071571, dated July 24, 2000, falsely states that the waste is non-flammable (waste code 221, in a tanker truck).

2.1.e. Manifest #20833738, dated November 8, 2001, falsely states that the waste was oil and water (in a tanker truck).

2.2. The Respondents violated California Code of Regulations, title 22, section 66263.23, subsection (b), in that on five separate occasions between June 28, 2000 and October 15, 2001, Respondents delivered used oil mixed with contaminated petroleum products and/or waste solvents to a hazardous waste facility that is not authorized by the Department to receive the waste.

2.2.a. Manifest #20842252, dated September 26, 2001, shows that the waste (ignitable, solvents) was taken to a facility that is not authorized to receive such waste.

2.2.b. Manifest #20071563, dated July 24, 2000, shows that the waste (gasoline) was taken to a facility that is not authorized to receive such waste.

2.2.c. Manifest #20071295, dated June 28, 2000, shows that the waste (stoddard solvent, waste code 213) was taken to a facility that is not authorized to receive such waste.

2.2.d. Manifest #20071571, dated July 24, 2000, shows that the waste (ignitable, fuel) was taken to a facility that is not authorized to receive such waste.

2.2.e. Manifest #20842346, dated October 15, 2001, shows that the waste (gasoline, per the receipt) was taken (on a consolidated manifest) to a facility that is not authorized to receive such waste.

2.3. The Respondents violated Health and Safety Code section 25189.2, subdivision (c), in that on two separate occasions between September 11, 2000 and September 28, 2001, Respondents caused the disposal or disposed of two separate drums of non-RCRA hazardous waste at a point which is not authorized.

2.3.a. Waste transported under Manifest #20074927, dated September 11, 2000, was not disposed of at D/K Environmental, as the manifest represents.

2.3.b. Waste transported under Manifest #20842341, dated September 28, 2001, was not disposed of at Industrial Service Oil Co., Inc., as the manifest represents.

2.4. The Respondents violated Health and Safety Code section 25250.7, subdivision (a), in that on four separate occasions between July 24, 2000 and November 8, 2001, Respondents intentionally contaminated used oil with other hazardous waste.

2.4.a. Manifest #20842252, dated September 26, 2001, shows that Respondents picked up solvents, a hazardous waste,

from the generator and delivered used oil contaminated with solvents to the TSDF.

2.4.b. Manifest #20071563, dated July 24, 2000, shows that

Respondents picked up flammable gasoline, a hazardous waste, from the generator and delivered used oil contaminated with flammable gasoline, to the TSDF.

2.4.c. Manifest #20071571, dated July 24, 2000, shows that

Respondents picked up flammable fuel, a hazardous waste, from the generator and delivered used oil contaminated with flammable fuel, to the TSDF.

2.4.d. Manifest #20833738, dated November 8, 2001, shows that

Respondents picked up water with pyrotechnics, from the generator as a hazardous waste and delivered used oil contaminated with water with pyrotechnics, to the TSDF.

2.5. The Respondents violated California Code of Regulations, title 22, section 66263.21, subsection (a)(1), in that on or about September 21, 2001, Respondents failed to deliver the entire quantity of hazardous waste that they picked up to the designated facility listed on the manifest. Manifest #20074926, dated September 21, 2000, shows that 150 gallons of hazardous waste was picked up and 100 gallons was delivered to the TSDF.

2.6. The Respondents violated Health and Safety Code section 25201, subdivision (a) in that between November 3, 2001 and December 28, 2001, Respondents stored hazardous waste in excess of the ten days allowed under the transfer facility exemption (California Code of Regulations, title 22, section 66263.18) without a permit or other grant of authorization from the Department. This involved the following manifests: #20833690, 20833700, 20833748, 20833746, 20833855, and 20833907.

2.7. The Respondents violated Health and Safety Code section 25201, subdivision (a) in that on four separate occasions between July 24, 2000 and November 8, 2001, Respondents stored hazardous waste, without a permit or other grant of authorization from the Department, and did not qualify for the ten day transfer facility exception by virtue of Respondents' handling of the waste.

2.7.a. Manifest #20842252, dated September 26, 2001, shows that the hazardous waste was picked up in a drum and delivered to the TSDF in a tanker truck.

2.7.b. Manifest #20071563, dated July 24, 2000, shows that the hazardous waste was picked up in a drum and delivered to the TSDF in a tanker truck.

2.7.c. Manifest #20071571, dated July 24, 2000, shows that the hazardous waste was picked up in a drum and delivered to the TSDF in a tanker truck.

2.7.d. Manifest #20833738, dated November 8, 2001. The hazardous waste was picked up in a pick up truck.

The manifest shows that it was delivered to the TSDF
in a tanker truck.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violations,
IT IS HEREBY ORDERED THAT:

3.1.1. Effective immediately, Respondents shall not
make false statements on any manifest.

3.1.2. Effective immediately, Respondents shall only
deliver hazardous waste to a facility authorized to accept such
waste.

3.1.3. Effective immediately, Respondents shall not
dispose or cause the disposal of hazardous waste at a point which
is not authorized.

3.1.4. Effective immediately, Respondents shall not
intentionally contaminate used oil with other hazardous waste.

3.1.5. Effective immediately, Respondents shall
deliver the entire quantity of hazardous waste to the designated
facility.

3.1.6. Effective immediately, Respondents shall not
store hazardous waste, in excess of the ten days allowed under
the transfer facility exemption (California Code of Regulation,
title 22, section 66263.18), unless the Respondents first apply
and obtain the proper permit from the Department.

3.1.7. Effective immediately, Respondents shall not
handle hazardous waste by transferring it from drums to a tanker

truck, unless the Respondents first apply and obtain the proper permit from the Department.

3.2. Submittals. All submittals from the Respondents pursuant to this Order shall be sent to:

Mary Locke, Chief Criminal Investigator
Criminal Investigations Branch
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P.O. Box 806
Sacramento, CA 95812-0806

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondents in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondents shall be construed to relieve Respondents of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondents with recommended changes and a date by which Respondents must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondents shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondents to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondents. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and

consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondents in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondents shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Data and Document Availability. Respondents shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondents or on Respondents' behalf in any way pertaining to work undertaken pursuant to this Order. Respondents shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these

documents be preserved for a longer period of time, Respondents shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondents shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondents pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Request: If Respondents are unable to perform any activity or submit any document within the time required under this Order, the Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondents to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondents, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondents' penalty at \$204,900.00. Payment is due within 30 days from the effective date of the Order. Respondents' check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondents and Docket Number, as shown in the heading of this case. Respondents shall deliver the penalty payment to:

Department of Toxic Substances Control

Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Mary Locke, Chief Criminal Investigator
Criminal Investigations Branch
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P.O. Box 806
Sacramento, CA 95812-0806

RIGHT TO A HEARING

6. Respondents may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondents.

EFFECTIVE DATE

7. This Order is final and effective fifteen days from the date of service, which is the date the Order was served upon the Respondents, unless Respondents request a hearing within the fifteen-day period.

Date of Issuance_____

ORIGINAL SIGNED BY MARY LOCKE

Mary Locke
Chief Criminal Investigator
Department of Toxic Substances Control